

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 99-7250

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ERIC DEWON BRITT, a/k/a Anthony Gerard Wilson,
a/k/a E,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Rebecca B. Smith, District Judge. (CR-96-208, CA-99-778-2)

Submitted: December 16, 1999

Decided: December 30, 1999

Before MURNAGHAN and MOTZ, Circuit Judges, and BUTZNER, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Eric Dewon Britt, Appellant Pro Se. Fernando Groene, OFFICE OF THE UNITED STATES ATTORNEY, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Eric Dewon Britt seeks to appeal the district court's order dismissing his 28 U.S.C.A. § 2255 (West Supp. 1999) motion. We dismiss the appeal for lack of jurisdiction because Britt's notice of appeal was not timely filed.

When the United States is a party to a civil case, parties are accorded sixty days after the entry of the district court's final judgment or order to note an appeal, see Fed. R. App. P. 4(a)(1), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5) or reopens the appeal period under Fed. R. App. P. 4(a)(6). This appeal period is "mandatory and jurisdictional." Browder v. Director, Dep't of Corrections, 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The district court's order was entered on the docket on July 2, 1999. Britt's notice of appeal was filed on September 1, 1999.* Because Britt failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequate-

* For the purpose of this appeal, we assume that the date appearing on the notice of appeal is the earliest date it could have been given to prison officials for mailing. See Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266 (1988).

ly presented in the materials before the court and argument would not aid the decisional process.

DISMISSED